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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,067	03/22/2001	Daisuke Matsubara	16869B023900	2693

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EXAMINER

RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/816,067

Applicant(s)

MATSUBARA ET AL.

Examiner

Daniel J. Ryman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 4/7/2006 have been fully considered but they are not persuasive. On page 6 of the Response, Applicant asserts that "[a] distinguishing aspect of the pending claims is that the data links . . . each is [sic] associated with a predetermined communication resource (e.g. bandwidth, as recited in dependent claim 5)." Examiner, respectfully, disagrees. Kabie teaches that each link is partitioned with a percentile value assigned to each transport pool (col. 6, lines 8-10) where the percentile value constitutes a percentage of the "Link Rate" (col. 6, lines 10-27). As such, Examiner maintains that Kabie explicitly discloses that each link is associated with a predetermined communication resource, namely the "link rate."

2. On page 7 of the Response, Applicant further asserts that

Kabie clearly teaches that a QoS is mapped to a transport pool, which in turn comprises a partitioning of core links. Kabie does not teach or suggest that each core link is mapped to a QoS. Therefore Kabie does not teach or suggest "associating a predetermined data communication capacity with each of the data communicating links, as recited in claim 7."

Again, Examiner, respectfully, disagrees. Claim 7 merely requires "associating a predetermined data communication capacity with each of the data communicating links." Kabie teaches "core links 16 in the MPLS core 12 (see Fig. 1) are partitioned with a percentile value assigned to each transport pool 106" (col. 6, lines 8-10). Referring to Fig. 1A, each core link is labeled "16" such that the phrase "core links 16" means "all core links." In addition, Kabie teaches that the partitioning takes the "link rate" of each link and breaks it into pools of bandwidth (col. 6, lines

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10-26). As such, Examiner maintains that Kabie teaches “associating a predetermined data communication capacity [“link rate”] with each of the data communicating links [core links 16].”

3. Given the foregoing, Examiner maintains that the claims are anticipated by Kabie.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kabie et al.

(USPN 6,795,445), of record.

6. Regarding claim 1, Kabie discloses a data network for communicating data between a sender unit and a receiver unit, comprising: a core network (ref. 12) including relay elements (ref. 14) intercoupled by data links (ref. 16) (Figs. 1A, 1B and col. 4, lines 49-67); a gateway element (ref. 20: edge node) coupled to the core network and to the sender unit (ref. 24), the receiver unit (ref. 24) being coupled to the core network (Figs. 1A, 1B and col. 4, lines 49-67), the gateway element having at least one information table (core topology database) identifying at least one route from the gateway element through the core network to the receiver unit, including data links which constitute the at least one route (tunnel) (col. 1, lines 47-49 and col. 4, lines 44-48), allocations of predetermined communication resources of the data links (TBM and SBM) (col. 10, lines 1-31), and status of the one or more data links (TBM and SBM) (col. 10, lines 1-31).

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7. Regarding claim 2, Kabie discloses a method of management of data communication through a core network between a sender unit and a receiver unit that includes the steps of: defining at least one communicative route (tunnel/label-switched-path) through the core network (ref. 12) between the sender unit (ref. 24) and the receiver unit (ref. 24) that includes a plurality of network links (ref. 16) that each have a predetermined communication resource (Figs. 1A, 1B and col. 4, lines 49-67); coupling the sender unit and the receiver unit to the core network with a sending and receiving gateway element (ref. 20: edge node), respectively (Figs. 1A, 1B and col. 4, lines 49-67); allocating to the sending gateway element a first portion of the predetermined communication resource of at least certain of the network links forming a communicative route between the sending and receiving gateway elements (col. 2, lines 58-65), and maintaining at the sending gateway element information indicative of the allocated predetermined communication resource (TBM and SBM) (col. 10, lines 1-31); receiving at the sending gateway element a request from the sender unit for a data transfer across the route, the request including a specification of requested communication resource (Fig. 9; col. 9, lines 1-3; and col. 10, lines 1-31) where "a requested bandwidth" requires that the request include a specification of the requested communication resource; the sending gateway checking the information to grant the request if the communicating capacity of the communicative route is available (col. 9, lines 1-3 and col. 10, lines 1-31).

8. Regarding claim 3, Kabie discloses allocating a second portion of the predetermined communication resource of the certain of the network links (col. 2, lines 10-13 and col. 10, lines 1-31) where each label switched path can be apportioned among multiple tunnels.

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9. Regarding claim 4, Kabie discloses that the step of checking the information includes reconfiguring the predetermined communicative resource of the certain of the network links and re-allocate at least a portion of the communicative resource allocated to the receiving gateway element to the sending gateway element (col. 7, lines 30-47 and col. 10, lines 1-31).

10. Regarding claim 5, Kabie discloses that predetermined communication resource is a communication bandwidth (col. 10, lines 1-3).

11. Regarding claim 6, Kabie discloses that the predetermined communication resource includes a communication bandwidth (col. 10, lines 1-3).

12. Regarding claim 7, Kabie discloses a method of admission control of data to a core network having a number of relay nodes interconnected by data links, the method including the steps of: associating a predetermined data communication capacity ("link rate") with each of the data communicating links (see col. 6, lines 8-15); communicatively coupling sending and receiving gateway elements (ref. 20: edge node) to the core network (ref. 12) (Figs. 1A, 1B and col. 4, lines 49-67); connecting first and second data transfer elements (ref. 14) to the sending and receiving gateway elements, respectively, for data communication by a route through the core network containing certain of the data links (Figs. 1A, 1B and col. 4, lines 49-67); assigning first and second portions of the data communication capacity of at least the certain of the data links to the sending and receiving gateway elements, respectively (col. 10, lines 1-31); providing the sending gateway element with information indicative of the first portion (col. 10, lines 1-31); the sending gateway element responding to a request for data communication of a requested capacity from the first data transfer element by checking the information, and granting the request if the

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communication capacity of the certain data links is at least equal to or greater than the requested capacity (col. 10, lines 1-31).

13. Regarding claim 8, Kabie discloses that the sending step includes re-assigning at least a part of the second portion to the first portion of the data communication capacity of at least one of the certain data links (col. 10, lines 1-31).

14. Regarding claim 9, Kabie discloses the step of providing the receiving gateway element with information indicative of the second portion (col. 10, lines 1-31).

15. Regarding claim 10, Kabie discloses that the step of re-assigning includes decreasing the information indicative of the second portion by the part of the second portion re-assigned to the first portion (col. 7, lines 30-47 and col. 10, lines 1-31).

16. Regarding claim 11, Kabie discloses that the step of re-assigning includes increasing the information indicative of the first portion by the part of the second portion re-assigned to the first portion (col. 7, lines 30-47 and col. 10, lines 1-31).

17. Regarding claim 12, Kabie discloses a system for providing a QoS communication route from a first communicating entity to a second communicating entity through a core network that includes a plurality of network links, the system including: a data store comprising an information table of information indicative of a predetermined communication resource ("link rate") associated with each network link (col. 6, lines 8-15); a sending gateway element (ref. 20: edge node) and a receiving gateway element (ref. 20: edge node) respectively coupling the first and second communicating entities (ref. 24) to the core network (ref. 12) (Figs. 1A, 1B and col. 4, lines 49-67); assigning the sending gateway element a first portion of the predetermined communication resource of at least certain of the network links forming a communicative route

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between the sending and receiving gateway elements (col. 10, lines 1-31), and maintaining at the sending gateway element information indicative of the allocated predetermined communication resource (col. 10, lines 1-31); receiving at the sending gateway element a request from the sender unit for a data transfer across the route, the request including a specification of requested communication resource (Fig. 9 and col. 9, lines 1-3) where "a requested bandwidth" requires that the request include a specification of the requested communication resource; the sending gateway checking the information to grant the request if the communicating capacity of the communicative route is available (col. 9, lines 1-3 and col. 10, lines 1-31).

### *Conclusion*

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00-4:30.



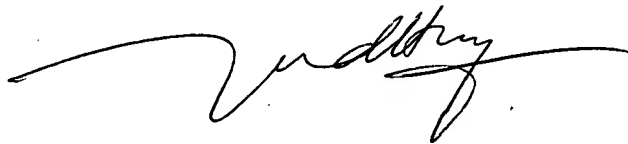
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJR

Daniel J. Ryman  
Examiner  
Art Unit 2616



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